

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1459

Introduced by Senator Simitian

February 23, 2006

An act to amend Sections 85100 and 85300 of, and to add Article 9 (commencing with Section 85900) to Chapter 5 of Title 9 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, as amended, Simitian. Political Reform Act of 1974: Insurance Commissioner campaigns.

Under existing provisions of the Political Reform Act of 1974, a public officer is prohibited from expending or accepting any public moneys for the purpose of seeking elective office.

This bill would exempt campaigns for the office of Insurance Commissioner from that prohibition. The bill would enact the Insurance Commissioner Election Accountability Act of 2006, which would authorize eligible Insurance Commissioner candidates, as defined, to obtain public financing from a fund made up of ~~unspecified~~ fees collected from insurers, reimbursements, and interest according to specified procedures and requirements, provided that certain thresholds of public support are shown. The bill would impose responsibility for its administration on the Fair Political Practices Commission. The bill would provide specified penalties for violations of its provisions.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act by a statute that becomes effective only when approved by the voters.

This bill would require the Secretary of State to submit those provisions of the bill that amend the Political Reform Act of 1974 to the voters for approval at the June 3, 2008, statewide primary election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 85100 of the Government Code is amended to read:

85100. This chapter shall be known as the “Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.” It is the intent of this chapter to limit public financing involvement in electoral campaigns to the financing of Insurance Commissioner’s campaigns through fees collected from insurers.

SEC. 2. Section 85300 of the Government Code is amended to read:

85300. Except as provided in Article 9 (commencing with Section 85900), no public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.

SEC. 3. Article 9 (commencing with Section 85900) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 9. INSURANCE COMMISSIONER ELECTION
ACCOUNTABILITY ACT OF 2006

85900. The Legislature and the People of the State of California find and declare all of the following:

(a) The Insurance Commissioner is unique among state elected officers in California in that the commissioner’s role is to regulate a single industry.

(b) Since Proposition 103 of 1988 changed the Insurance Commissioner from an appointed to an elected position, insurers regulated by the Insurance Commissioner have consistently dominated the contribution of funds spent on campaigns for that office. The ever-increasing cost of political campaigns for Insurance Commissioner has forced candidates to raise larger and larger percentages of money from groups, especially insurers and

1 insurers' organizations, that have a specific stake in the outcomes
2 of decisions that will be made by the commissioner.

3 (c) Since the passage of Proposition 103 of 1988, the office of
4 the Insurance Commissioner has suffered from the taint of at
5 least one serious instance of corruption leading to the premature
6 departure of an incumbent, and has been subjected to frequent
7 allegations of being unduly influenced by the insurance industry
8 that it regulates. These allegations, whether true or false, weaken
9 the regulatory authority of the commissioner and require him or
10 her to give undue consideration to public and industry perception
11 when making decisions.

12 (d) Five months prior to the passage of Proposition 103, and
13 thus without an elected Insurance Commissioner's office to
14 consider, the voters passed Proposition 73 of 1988, which forbids
15 the expenditure and acceptance of public moneys for the purpose
16 of seeking elective office. The ballot arguments for Proposition
17 73 opposed the expenditure of "tax" dollars for electoral
18 campaigns and giving "tax money to politicians."

19 (e) The passage of Proposition 73 of 1988 appears to be based
20 on the voters' opposition to the expenditure of their personal tax
21 dollars, the money in "the taxpayers' purses and wallets" as
22 stated in the proponents' ballot argument.

23 (f) The passage of Propositions 73 and 103 in 1988 shows that
24 the voters desire honest regulation of the insurance industry by
25 an independent Insurance Commissioner, but the interplay of
26 those two propositions has not fully served these purposes in the
27 context of the Insurance Commissioner's office.

28 (g) Although financing Insurance Commissioner elections
29 from fees assessed on insurers eliminates a serious obstacle to
30 honest insurance regulation, it requires the amendment of a
31 provision in Proposition 73 that prohibits the expenditure or
32 acceptance of public moneys for the purposes of elective
33 campaigns. However, only certain mechanisms for paying the
34 costs of those elections conflicts with the proponents' arguments
35 for Proposition 73 that emphasized opposition to the taking and
36 redistributing individual taxpayers' moneys for political
37 campaigns. Thus, a mechanism using fees for funding a publicly
38 financed Insurance Commissioner's election does not undermine
39 Proposition 73.

(h) The connection between the influence of contributions of regulated entities and ineffective or biased regulatory oversight is well documented, even with an appointed regulator. The connection between poor regulation and selective industry contributions to the campaigns of candidates for elective regulatory positions is clearer still. The fees charged to insurers in this article are only for the purpose of financing campaigns for the office of Insurance Commissioner and shall be used for no other purpose. These fees have been determined by the Legislature to be appropriate and no greater than necessary in aggregate based on the costs of prior campaigns for Insurance Commissioner. The payment of these fees for electing an Insurance Commissioner free from the taint of selective industry campaign contributions benefits insurers and policyholders by adding to the credibility of, and reducing undue influence on, the decisions of the insurance regulator. The economic value of that benefit to insurers and policyholders far exceeds the aggregate amount of the fees, and basing the fees on gross premiums fairly distributes the costs of that benefit among insurers and their customers. The benefit of effective and unbiased regulation of the insurance industry on consumers and others also far exceeds any burden on those consumers and others who may be impacted by the assessment of these fees on insurers.

85902. Unless specifically superseded by this article, the definitions and provisions of the Political Reform Act of 1974 shall govern the interpretation of this article.

85904. For purposes of this article, the following terms have the following meanings:

(a) “Commission” means the Fair Political Practices Commission.

(b) “Exploratory campaign period” means the period from the day 18 months prior to the primary election until the 90th day prior to the primary election, inclusive.

(c) “Qualifying period” means the period from the day 270 days prior to the primary election until the 90th day prior to the primary election, inclusive.

(d) “Primary election campaign period” means the period from the 89th day prior to the primary election and to the day of the primary election, inclusive.

1 (e) “General election campaign period” means the period
2 beginning the day after the primary election and ending on the
3 day of the general election, inclusive.

4 (f) “ICEA Fund” means the Insurance Commissioner Election
5 Accountability Fund, and money from that fund is ICEA funding
6 or ICEA funds.

7 (g) “Office-qualified party” means a party whose
8 gubernatorial nominee or whose candidate for Insurance
9 Commissioner received 10 percent or more of the votes at the last
10 election.

11 (h) “Office-qualified candidate” means a candidate seeking
12 nomination for Insurance Commissioner from an office-qualified
13 party.

14 (i) “Nonparticipating candidate” means a candidate for
15 Insurance Commissioner who is on the ballot but who has chosen
16 not to apply for ICEA campaign funding, or a candidate for
17 Insurance Commissioner who is on the ballot and has applied but
18 has not satisfied the requirements for receiving ICEA funding.

19 (j) “Participating candidate” means a candidate who qualifies
20 for ICEA funding. These candidates are eligible to receive ICEA
21 funding during exploratory, primary, and general election
22 campaign periods.

23 (k) “Party candidate” means a candidate for Insurance
24 Commissioner who represents a political party that has been
25 granted ballot status and holds a primary election to choose its
26 nominee for the general election.

27 (l) “Qualifying contribution” means a contribution of five
28 dollars (\$5) received from a registered voter during the
29 designated qualifying period for the purpose of making a
30 candidate eligible to receive ICEA funds.

31 (m) “Seed money contribution” means a contribution in an
32 amount of not more than \$100 made by a California registered
33 voter during the exploratory campaign period.

34 85910. (a) A candidate for the Office of Insurance
35 Commissioner qualifies to receive ICEA funding for the primary
36 election campaign if the following requirements are met:

37 (1) The candidate files a declaration with the commission that
38 the candidate has complied and will comply with all of the
39 requirements of this article, including the requirement that during
40 the exploratory period and the qualifying period the candidate not

1 accept or spend private contributions from any source other than
2 seed money contributions, ICEA funds, and political party funds
3 as specified in Section 85966.

4 (2) The candidate meets the following qualifying contribution
5 requirements before the close of the qualifying period:

6 (A) The candidate receives at least 7,500 qualifying
7 contributions from registered voters. No registered voter shall
8 provide a qualifying contribution to more than one candidate in
9 an Insurance Commissioner election cycle.

10 (B) Each qualifying contribution is acknowledged by a receipt
11 to the contributor, with a copy submitted to the commission by
12 the candidate.

13 (i) The receipt shall include the contributor's signature, printed
14 name and home address, and the name of the candidate on whose
15 behalf the contribution is made. In addition, the receipt shall
16 indicate by the contributor's signature that the contributor
17 understands that he or she may contribute a qualifying
18 contribution to only one candidate, that the purpose of the
19 qualifying contribution is to help the candidate qualify for ICEA
20 campaign funding, and that the contribution is made without
21 coercion or reimbursement. A contribution submitted as a
22 qualifying contribution that does not include a signed and fully
23 completed receipt shall not be counted as a qualifying
24 contribution.

25 (ii) All five dollar (\$5) qualifying contributions, whether in the
26 form of cash, check, or money order made out to the candidate's
27 campaign account, shall be deposited by the candidate in the
28 candidate's campaign account.

29 (iii) All signed receipts acknowledging qualifying
30 contributions shall be sent to the commission and shall be
31 accompanied by a check from the candidate's campaign account
32 for the total amount of qualifying contribution moneys received
33 for deposit in the Insurance Commissioner Election
34 Accountability Fund. This submission shall be accompanied by a
35 signed statement from the candidate indicating that all of the
36 information on the qualifying contribution receipts is complete
37 and accurate to the best of the candidate's knowledge and that the
38 amount of the enclosed check is equal to the sum of all the five
39 dollar (\$5) qualifying contributions the candidate has received.

1 (b) A party candidate qualifies as a participating candidate for
2 the general election campaign period if both of the following
3 requirements are met:

4 (1) The candidate met all of the applicable requirements and
5 filed a declaration with the commission that the candidate has
6 fulfilled and will fulfill all of the requirements of a participating
7 candidate as stated in this article.

8 (2) As a participating candidate from an office-qualified party
9 during the primary election campaign period, the candidate had
10 the highest number of votes of the candidates contesting the
11 primary election from the candidate's respective party and,
12 therefore, won the party's nomination.

13 85912. During the first election that occurs after the effective
14 date of this article, a candidate may be certified as a participating
15 candidate, notwithstanding the acceptance of contributions or
16 making of expenditures from private funds before the date of
17 enactment that would, absent this section, disqualify the
18 candidate as a participating candidate, provided that any private
19 funds accepted but not expended before the effective date of this
20 act meet any of the following criteria:

21 (a) Are returned to the contributor.

22 (b) Are held in a special campaign account and used only for
23 retiring a debt from a previous campaign.

24 (c) Are submitted to the commission for deposit in the ICEA
25 Fund.

26 85914. A participating candidate who accepts any ICEA
27 benefits during the primary election campaign period shall
28 comply with all of the requirements of this article through the
29 general election campaign period whether the candidate
30 continues to accept ICEA benefits or not.

31 85916. (a) During the primary and general election campaign
32 periods, a participating candidate who has voluntarily agreed to
33 participate in, and has become eligible for, ICEA benefits, shall
34 not accept private contributions from any source other than the
35 candidate's political party as specified in Section 85966.

36 (b) During the qualifying period and the primary and general
37 election campaign periods, a participating candidate who has
38 voluntarily agreed to participate in, and has become eligible for,
39 ICEA benefits shall not solicit or receive political contributions

1 for any other candidate or for any political party or other political
2 committee.

3 (c) No person shall make a contribution in the name of another
4 person. A participating candidate who receives a qualifying
5 contribution or a seed money contribution that is not from the
6 person listed on the receipt required by subparagraph (B) of
7 paragraph (2) of subdivision (a) of Section 85910 shall be liable
8 to pay the commission the entire amount of the inaccurately
9 identified contribution, in addition to any penalties.

10 (d) During the primary and general election campaign periods,
11 a participating candidate shall pay for all of the candidate's
12 campaign expenditures, except petty cash expenditures, by means
13 of an "ICEA Debit Card" issued by the commission, as
14 authorized under Section 85984.

15 (e) Eligible candidates shall furnish complete campaign
16 records, including all records of seed money contributions and
17 qualifying contributions, to the commission at regular filing
18 times, and shall cooperate with any audit or examination by the
19 commission, the Franchise Tax Board, or any enforcement
20 agency.

21 85918. (a) During an election, each participating candidate
22 shall conduct all campaign financial activities through a single
23 campaign account.

24 (b) Notwithstanding Section 85201, a participating candidate
25 may maintain a campaign account other than the campaign
26 account described in subdivision (a) if the other campaign
27 account is for the purpose of retiring a campaign debt that was
28 incurred during a previous election campaign in which the
29 candidate was not a participating candidate.

30 (c) Contributions for the purposes of retiring a previous
31 campaign debt that are deposited in the "other campaign
32 account" described in subdivision (b) shall not be considered
33 contributions to the candidate's current campaign. Those
34 contributions shall only be raised during the six-month period
35 following the date of the election.

36 (d) Participating candidates shall file reports of financial
37 activity related to the current election cycle separately from
38 reports of financial activity related to previous election cycles.

39 85920. (a) Participating candidates shall use their ICEA
40 funds only for direct campaign purposes.

(b) A participating candidate shall not use ICEA funds for any of the following:

(1) Costs of legal defense in any campaign law enforcement proceeding under this act.

(2) Indirect campaign purposes, including, but not limited to, the following:

(A) The candidate's personal support or compensation to the candidate or the candidate's family.

(B) The candidate's personal appearance.

(C) Capital assets having a value in excess of five hundred dollars (\$500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles.

(D) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee.

(E) An independent expenditure.

(F) A gift in excess of twenty-five dollars (\$25) per person.

(G) Any payment or transfer for which compensating value is not received.

85922. Personal funds contributed as seed money by a candidate seeking to become eligible as a participating candidate or by adult members of the candidate's family shall not exceed the maximum of one hundred dollars (\$100) per contributor.

85924. (a) The only private contributions a candidate seeking to become eligible for ICEA funding shall accept, other than qualifying contributions and limited contributions from the candidate's political party as specified in Section 85966, are seed money contributions contributed by California registered voters prior to the end of the qualifying period.

(b) A seed money contribution shall not exceed one hundred dollars (\$100) per donor, and the aggregate amount of seed money contributions accepted by a candidate seeking to become eligible for ICEA funding shall not exceed seventy-five thousand dollars (\$75,000).

(c) Receipts for seed money contributions under twenty-five dollars (\$25) shall include the contributor's signature, printed name, street address, and ZIP Code. Receipts for seed money contributions of twenty-five dollars (\$25) or more shall also include the contributor's occupation and name of employer.

1 Contributions shall not be retained if the required disclosure
2 information is not received.

3 (d) Seed money shall be spent only during the exploratory and
4 qualifying periods. Seed money shall not be spent during the
5 primary or general election campaign periods. Any unspent seed
6 money shall be turned over to the commission for deposit in the
7 ICEA Fund.

8 (e) Within 72 hours after the close of the qualifying period,
9 candidates seeking to become eligible for ICEA funding shall do
10 both of the following:

11 (1) Fully disclose all seed money contributions and
12 expenditures to the commission.

13 (2) Turn over to the commission for deposit in the ICEA Fund
14 any seed money the candidate has raised during the exploratory
15 period that exceeds the aggregate seed money limit.

16 85926. (a) No more than five days after a candidate applies
17 for ICEA benefits, the commission shall certify that the candidate
18 is or is not eligible. Eligibility may be revoked if the candidate
19 violates the requirements of this act, in which case all ICEA
20 funds shall be repaid.

21 (b) The candidate's request for certification shall be signed by
22 the candidate and the candidate's campaign treasurer under
23 penalty of perjury.

24 (c) The commission's determination is final except that it is
25 subject to judicial review within 48 hours.

26 85940. Candidates who qualify for ICEA funding for primary
27 and general elections shall:

28 (a) Receive ICEA funding from the commission for each
29 election, the amount of which is specified in Section 85944. This
30 funding may be used to finance any and all campaign expenses
31 during the particular campaign period for which it was allocated.

32 (b) Receive additional ICEA funding to match any excess
33 expenditure amount spent by a nonparticipating candidate, as
34 disclosed pursuant to Section 85960.

35 (c) Receive additional ICEA funding to match any
36 independent expenditure made in opposition to their candidacies
37 or in support of their opponents' candidacies, as disclosed
38 pursuant to Section 85962, provided that the dollar value of the
39 independent expenditure, combined with the amount raised or
40 received thus far by any opposing candidate who benefits from

1 the independent expenditure or independent electioneering
2 expenditure, exceeds the original ICEA funding amount received
3 by the participating candidate.

4 85942. (a) An eligible qualified candidate shall receive the
5 candidate's ICEA funding for the primary election campaign
6 period on the date on which the commission certifies the
7 candidate as a participating candidate. This certification shall
8 take place no later than five days after the candidate has
9 submitted the required number of qualifying contribution
10 receipts, a check for the total amount of qualifying contributions
11 collected, and a declaration stating that the candidate has
12 complied with all other requirements for eligibility as a
13 participating candidate, but no earlier than the beginning of the
14 primary election campaign period.

15 (b) An eligible qualified candidate shall receive the
16 candidate's ICEA funding for the general election campaign
17 period within 24 hours after certification of the primary election
18 results.

19 85944. (a) The amount of ICEA funding for an eligible
20 candidate in a primary, special, or special runoff election is one
21 million five hundred thousand dollars (\$1,500,000).

22 (b) The amount of ICEA funding for an eligible candidate in a
23 primary election in which no other candidate is running in any
24 party primary for Insurance Commissioner is 10 percent of the
25 amount provided in a contested primary election.

26 (c) The amount of ICEA funding for an eligible Insurance
27 Commissioner candidate in a contested general election who is
28 either the nominee of an office-qualified party, or who did not
29 run in the primary of an office-qualified party primary but
30 received 20 percent or more of the total number of votes cast in
31 the primary election, or who collects signatures of California
32 registered voters during the primary period in support of his or
33 her candidacy equal in number to 5 percent of the total number of
34 votes cast for the office of Insurance Commissioner in the
35 preceding general election, is three million dollars (\$3,000,000).

36 85960. (a) If a nonparticipating candidate's total
37 expenditures exceed the amount of ICEA funding allocated to the
38 candidate's participating opponent or opponents, the candidate
39 shall declare every excess expenditure amount which, in the
40 aggregate, is more than five thousand dollars (\$5,000) to the

1 commission online or electronically within 24 hours of the time
2 the expenditure is made.

3 (b) The commission may make its own determination as to
4 whether excess expenditures have been made by nonparticipating
5 candidates.

6 (c) Upon receiving an excess expenditure declaration or
7 determining that an excess expenditure has been made, the
8 commission shall immediately release additional ICEA funding
9 to the opposing participating qualified candidates. The amount
10 released shall be equal to the excess expenditure amount the
11 nonparticipating candidate has spent. The aggregate amount of
12 additional funding a participating candidate shall receive to
13 match the total of independent expenditures and the excess
14 expenditures of nonparticipating candidates shall not exceed 500
15 percent of the participating candidate's initial ICEA funding
16 allocation.

17 85962. (a) In addition to any other report required by this
18 chapter, a committee, including a political party committee, that
19 is required to file reports pursuant to Section 84605 and that
20 makes independent expenditures of one thousand dollars
21 (\$1,000) or more during an election cycle in connection with a
22 candidate for Insurance Commissioner, shall file online or
23 electronically a report with the commission disclosing the
24 making of the independent expenditure. This report shall disclose
25 the same information required by subdivision (b) of Section
26 84204 and shall be filed within 24 hours of the time the
27 independent expenditure is made.

28 (b) The report to the commission shall include a signed
29 statement under penalty of perjury by the person or persons
30 making the independent expenditure identifying the candidate or
31 candidates whom the independent expenditure is intended to help
32 elect or defeat and affirming that the expenditure is independent
33 and whether it is coordinated with a candidate or a political party.

34 (c) Any individual or organization that fails to file the required
35 report to the commission or provides materially false information
36 in a report filed pursuant to subdivision (a) or (b) may be fined
37 up to three times the amount of the independent expenditure, in
38 addition to any other remedies provided by this act.

39 (d) Upon receiving a report that an independent expenditure
40 has been made, the commission shall immediately release

1 additional ICEA funding, equal in amount to the cost of the
2 independent expenditure, to all participating candidates whom
3 the independent expenditure is intended to oppose or defeat in
4 that specific primary or general election, provided that:

5 (1) The dollar value of the independent expenditure, combined
6 with the amount raised or received thus far by any opposing
7 candidate who benefits from the independent expenditure,
8 exceeds the original actual ICEA funding amount received by the
9 participating candidate.

10 (2) The aggregate amount of additional funding a participating
11 candidate shall receive to match the total of independent
12 expenditures and the excess expenditures of nonparticipating
13 candidates shall not exceed 500 percent of the participating
14 candidate's initial ICEA funding allocation.

15 (e) A controlled committee of a candidate for Insurance
16 Commissioner shall not make independent expenditures and shall
17 not contribute funds to other expenditures that support or oppose
18 other candidates.

19 85964. A candidate for Insurance Commissioner, or a
20 committee controlled by a candidate for Insurance Commissioner
21 shall not receive any contributions prior to the beginning of the
22 exploratory period.

23 85966. Participating candidates may accept monetary or
24 in-kind contributions from political parties provided that the
25 aggregate amount of such contributions from all political party
26 committees combined does not exceed the equivalent of 5
27 percent of the original ICEA financing allotment. These
28 contributions shall not count towards the moneys spent by
29 participating candidates.

30 85980. The Insurance Commissioner Election Accountability
31 (ICEA) Fund is hereby created in the State Treasury.
32 Notwithstanding Section 13340 of the Government Code,
33 moneys in the ICEA Fund are continuously appropriated to the
34 commission for the following purposes:

35 (a) To provide financing for the election campaigns of
36 certified participating candidates for Insurance Commissioner
37 during primary and general campaign periods.

38 (b) To pay for the administrative and enforcement costs of the
39 commission related to this act.

1 85982. The following revenues shall be deposited into the
2 ICEA Fund:

3 (a) In addition to the amount of moneys collected pursuant to
4 Section 12202 of the Revenue and Taxation Code, fees equal to
5 0.01 percent of the amount of gross premiums shall be
6 collected from insurers and deposited into the ICEA Fund.

7 (b) The qualifying contributions required of Insurance
8 Commissioner candidates seeking to become certified as
9 participating candidates and those candidates' excess qualifying
10 contributions.

11 (c) The excess seed money contributions of Insurance
12 Commissioner candidates seeking to become certified as
13 participating candidates.

14 (d) Unspent funds distributed to any participating Insurance
15 Commissioner candidate who does not remain a candidate until
16 the primary or general election for which they were distributed,
17 or funds that remain unspent by a participating Insurance
18 Commissioner candidate following the date of the primary or
19 general election for which they were distributed.

20 (e) Funds received by the commission pursuant to Section
21 85988.

22 (f) Voluntary donations made directly to the ICEA Fund.

23 (g) Any interest generated by moneys in the ICEA Fund.

24 85984. (a) Upon a determination that a candidate for
25 Insurance Commissioner has met all the requirements for
26 becoming a participating candidate as provided for in this article,
27 the commission shall issue to the candidate a card, known as the
28 "ICEA Debit Card," and a "line of debit" entitling the candidate
29 and members of the candidate's staff to draw ICEA funds from a
30 commission account to pay for all campaign costs and expenses
31 up to the amount of ICEA funding the candidate has received.

32 (b) Neither a participating candidate nor any other person on
33 behalf of a participating candidate shall pay campaign costs by
34 cash, check, money order, loan, or by any other financial means
35 other than the ICEA Debit Card.

36 (c) Cash amounts of one hundred dollars (\$100) or less per
37 day may be drawn on the ICEA Debit Card and used to pay
38 expenses of no more than twenty-five dollars (\$25) each.
39 Records of all such expenditures shall be maintained and
40 reported to the commission.

1 85986. If the commission determines that there are
2 insufficient funds in the program to fund adequately all
3 candidates eligible for ICEA funds, the commission shall reduce
4 the amount available proportionately to all eligible candidates. If
5 the commission notifies a candidate that the ICEA funds will be
6 reduced and the candidate has not received any ICEA funds, the
7 candidate may decide to be a nonparticipating candidate. If a
8 candidate has already received ICEA funds or wishes to start
9 receiving these funds, a candidate who wishes to collect
10 contributions may do so in amounts up to the contribution limits
11 provided for nonparticipating candidates, but shall not collect
12 more than the total of ICEA funds that the candidate was entitled
13 to receive if there had been sufficient funds in the program less
14 the amount of ICEA funds that will be or have been provided. If,
15 at a later point, the commission determines that adequate funds
16 have become available, candidates who have not raised private
17 funds shall receive the funds that would be due to them under
18 this article.

19 85988. (a) If a participating candidate spends more than the
20 ICEA funding that the candidate is given, and if it is determined
21 by the commission, subject to court review, not to be an amount
22 that had or could have been expected to have a significant impact
23 on the outcome of the election, the candidate shall repay to the
24 commission for deposit in the ICEA Fund an amount equal to the
25 excess.

26 (b) If a participating candidate spends more than the ICEA
27 funding the candidate is given, and if that excess amount is
28 determined by the commission, subject to court review, to be an
29 amount that had or could have been expected to have a
30 significant impact on the outcome of the election, the candidate
31 shall repay to the commission for deposit in the ICEA Fund an
32 amount up to 10 times the value of the excess.

33 85990. It is unlawful for candidates to knowingly accept
34 more ICEA benefits than those to which they are entitled, spend
35 more than the amount of ICEA funding they have received, or
36 misuse those benefits or that ICEA funding.

37 (a) A person who knowingly and willfully violates this section
38 is guilty of a misdemeanor.

39 (b) A person who knowingly and willfully violates this
40 section and receives an undeserved benefit or amount of funding

1 that significantly impacts the results or conduct of an election
2 shall be punishable by a fine of up to twenty-five thousand
3 dollars (\$25,000), by imprisonment in a county jail for up to one
4 year or in the state prison, or by both that fine and imprisonment.

5 (c) A person convicted of a misdemeanor or felony violation
6 of this article shall serve a minimum of 24 consecutive hours in a
7 jail or in the state prison, which time shall not be suspended.

8 85995. The commission shall adjust the contribution
9 limitations, seed money provisions, and the ICEA Fund
10 provisions in this article in January of every odd-numbered year
11 to reflect any increase or decrease in the Consumer Price Index
12 and the increase in registered voters. Those adjustments shall be
13 rounded to the nearest ten dollars (\$10) for the seed money
14 provisions, one hundred dollars (\$100) for the limitations on
15 contributions, and one thousand dollars (\$1,000) for the ICEA
16 *Fund* provisions.

17 SEC. 4. The provisions of Section 81012 of the Government
18 Code, which allow legislative amendments to the Political
19 Reform Act of 1974, shall apply to all of the provisions of this
20 act that are placed on the June 3, 2008, ballot.

21 SEC. 5. The Secretary of State shall, pursuant to subdivision
22 (b) of Section 81012 of the Government Code, submit Sections 1,
23 2, 3, 4, and 6 of this act for approval by the voters at the June 3,
24 2008, statewide primary election, notwithstanding Section 9040
25 of the Elections Code.

26 SEC. 6. The section of this act that adds Article 9
27 (commencing with Section 85900) to Chapter 5 of Title 9 of the
28 Government Code shall be deemed to amend the Political
29 Reform Act of 1974 as amended and all of the provisions of the
30 Political Reform Act of 1974 as amended that do not conflict
31 with Article 9 shall apply to the provisions of that article.

32 SEC. 7. The provisions of this act are severable. If any
33 provision of this act or its application is held invalid, that
34 invalidity shall not affect other provisions or applications that can
35 be given effect without the invalid provision or application.